

REMARKS

In the Official Action of May 18, 2005, the Examiner rejected Claims 1–31 under 35 U.S.C., first paragraph; rejected Claims 1, 2, 25, 26 and 30–34 under 35 U.S.C. 102(e) as being anticipated by Goor et al US Patent 6,322,515; rejected Claims 32 and 34 under 35 U.S.C. 102(b) as being anticipated by Muz US Patent 4,907,594; rejected Claims 1, 2, 25, 26 and 30–33 under 35 U.S.C. 102(b) as being anticipated by Goldberger et al US Patent 4,685,464; and indicated that Claims 3–24 and 27–29 would be allowable if suitably amended to avoid the rejection under 35 U.S.C. 112, first paragraph. Favorable reconsideration of the Application is respectfully requested particularly in the light of the amendments to the claims, as discussed below, and the following remarks.

With respect to the rejection of Claims 1–31 under 35 U.S.C. 112, first paragraph, the Examiner held that the language “said housing includes at least three contiguous but separate sections”, e.g. as appearing in Claim 1, was unclear since the terms “separate” and “contiguous” appeared to the Examiner to be contradictory. Applicant does not agree with this holding by the Examiner, but rather submits that the above-quoted language in Claim 1 is clear and definite and is not contradictory, particularly when read in the light of the specification.

The clear meaning of this language is set forth in several places in the specification. For example, we refer to the first full paragraph on page 6 of the specification, pointing out the major differences in the device illustrated in Figs. 1–3 of the present application, over the devices described in publication WO98/04182. Incidentally, the latter publication corresponds to Goor et al US Patent 6,322,515, cited by the Examiner in rejecting certain of the claims of the present Application as discussed more particularly below.

Thus, as pointed out in the first full paragraph of page 6 of the specification, an important difference in the device illustrated in Figs. 1–3 over the prior art devices is that the housing in Figs. 1–3

“includes at least three contiguous but separate sections, namely a distal end section at its distal tip, a proximal end section at its opposite end, and at least one middle section between the end sections.”

This portion of the specification further brings out:

“These housing sections thus define at least three separate fluid chambers, namely one chamber within each end of the housing, and at least one chamber within the middle portion of the housing.”

As further pointed in this portion of the specification:

“Since this middle chamber has an end chamber on each side and is therefore open on each side, longitudinal motions of the body part occurring during the time the test is performed (e.g., finger jitter during an exercise) tend to cancel each other, as will be described more particularly below, thereby making the device less sensitive to movements of the body part during the measurement period.”

The advantages provided by this three-section construction are further described, for example in the complete paragraph on page 8 of the specification.

In view of the foregoing passages in the original specification, as well as other passages more particularly describing the structure and operation of the device, it is submitted that the original description clearly meets the requirements of 35 U.S.C. 112, first paragraph. Withdrawal of the rejection of Claims 1–31 under 35 U.S.C. 112, first paragraph, is therefore respectfully requested.

With respect to the rejection of Claims 1, 2, 25, 26 and 30–34 as being anticipated by Goor et al, it is believed that independent Claims 1 and 32, as well as their respective dependent claims included in the above rejection, clearly and sharply distinguished over Goor et al.

Regarding independent Claim 1 and its dependent claims, we refer to the above-quoted portions of the original specification clearly describing the novel structural features over Goor et al, and the advantages provided by such novel structural features. In any event, in order to even more sharply distinguish over Goor et al, Claim 1 has been amended to further set forth that each of the three contiguous but separate sections of the housing has a separate fluid chamber which is not the case in Goor et al. It is submitted, therefore, that Claim 1, particularly as now amended, together with its dependent claims 2, 25, 26, 30 and 31, also clearly distinguish over Goor et al for the above reasons, apart from the further features included in the respective dependent claims.

Regarding independent Claim 32, this claim recites that the proximal end section of the housing includes “a sponge cushion”. As noted by the Examiner, such

a “sponge cushion” is more particularly described on page 13, line 18, as being “of sponge rubber or the like”.

A sponge rubber cushion is normally considered by one skilled in the art to be rubber or the like which has been “foamed”, “aerated”, or somehow processed to produce a “cellular construction” to provide cushioning properties. The flexible rubber used for the membranes in Goor would hardly be considered to be “a sponge cushion” as recited Claim 32 under any reasonable interpretation of that term. It is submitted, therefore, that Claim 32, as well as its dependent Claims 33 and 34, are also allowable over Goor et al.

With respect to the rejection of Claims 32 and 34 as anticipated by Muz, the same rejection was made in the previous Official Action and was answered in the response to the previous Official Action. As pointed out in that response, the Examiner apparently refers to wall 6 and/or cap 1 which together define the pressure chamber 7, as illustrated in Fig. 2 of Muz. However, both the elastic wall 6 and the cap 1 are described as consisting of “natural or silicon rubber” (Column 4, lines 10–11).

As shown above, however, the “sponge cushion” as set forth in independent Claim 32 would be of some kind of “cellular construction” to provide good cushioning properties. No such “cellular construction” is described or contemplated in Muz, and it is submitted, therefore, that independent Claim 32, and its dependent Claims 33 and 34, are therefore also clearly allowable over Muz under 35 U.S.C. 102(b).

With respect to the rejections of Claims 1, 2, 25, 26 and 30–33 as anticipated by Goldberger et al, this rejection was also raised in the previous Official Action and answered in the response to the previous Official Action. As pointed out in that response, the so-called “three contiguous portions” of the housing in Goldberger et al are actually different portions of the same pad, namely pad 70 on one side of the finger, and pad 80 on the opposite side of the finger. It is submitted that the original wording of Claim 1 clearly distinguished over such a construction. The present wording of Claim 1 even further distinguishes, since it brings out that each of the three contiguous but separate sections of the housing has a separate fluid chamber, which is clearly not the case in Goldberger et al.

In view of the foregoing, it is believed this Application is now in condition for allowance, and therefore an early Notice of Allowance is respectfully requested.

Respectfully submitted,

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